

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

vs

CHRISTIAN MARTINEZ

Defendant

CRIMINAL 06-0021CCC

ORDER

This case is set for trial tomorrow, May 2, 2006. In the February 2, 2006 Scheduling Order (docket entry 17), the Court required the government to provide all Rule 16 discovery to defendant and to file its designation of evidence no later than February 9, 2006. The government, in violation of this Order, filed its Designation of Evidence on April 28, 2006 (docket entry 31),¹ two months and three weeks after the deadline. It designates evidence to be presented in its case in chief such as Jet Blue Airways tickets and boarding passes to defendant, the cooperating witness, and one Javier Sosa, a video and photos taken from it of Mercedita Airport, and an analysis of an unidentified cellular telephone, among others. Defendant filed a Motion for Specific Discovery on April 26, 2006 (**docket entry 30**), claiming that his cellular phone was seized at the time of arrest and he has not been provided any analysis that the government may have performed, that he has received no evidence regarding other subjects, all identified as illegals by Special Agent Immigration and Customs Enforcement Luis K. Fombellida in support of the criminal complaint, nor of the arrest of other aliens, their travel records, videos taken or phone records of Rosa, the cooperating witness' sister, who was allegedly involved in the offense. Although the Court NOTES that defendant Martínez should have raised the matters contained in his docket entry 30 before since he had all the data in the Fombellida affidavit, nonetheless, the government had a duty to disclose the Evidence mentioned in his motion before February 9, 2006 in compliance with the

¹ Said motion is NOTED.

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Scheduling Order. The government will respond to defendant's Motion for Specific Discovery within the final term of ten (10) days after notice.

Given the pendency of this Motion and the late designation of evidence by the United States, one working day before the trial, the Court is compelled to **VACATE the May 2, 2006 jury trial date** which will be reset by separate Order upon resolving these matters.

SO ORDERED.

At San Juan, Puerto Rico, on May1, 2006.

S/CARMEN CONSUELO CEREZO
United States District Judge